THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION. No.26860 of 2007

Date: 17.12.2007

Between:

M/s. Natural Bio Energy Limited,
Rep., by its Managing Director,
Jubilee Hills, Hyderabad.

... Petitioner

AND

The Zonal Manager,
A.P. Industrial Infrastructure Corporation Ltd.,
Govt., of A.P., undertaking,
I.D.A., Kakinada, East Godavari District,
& another.

... Respondents

Counsel for the petitioner : Sri G. Krishna Murthy

Counsel for the respondents: Sri K.V. Simhadri
SC for APIIC

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WRIT PETITION. No.26860 of 2007

ORDER:

This writ petition is filed for a writ of mandamus to declare the action of the A.P. Industrial Infrastructure Corporation Limited (for short, 'the Corporation') in cancelling the lease granted in favour of the petitioner vide letter dated 03.12.2007, as arbitrary, illegal, null and void.

By letter dated 12.10.2006, the Corporation handed over an extent of Ac.30.00 to the petitioner on lease basis for a rent of Rs.36,000/- per annum subject to certain conditions contained therein. Vide proceedings dated 26.05.2007, the Corporation addressed to the Zonal Manager, Kakinada, that it passed another order revising the lease rental charges at Rs.1,000/- per acre per annum for Ac.30.00 subject to the condition that the lease agreement shall be entered into with the company by the petitioner on receipt of advance lease rentals. Further proceedings were issued in June, 2007, wherein the Corporation reiterated granting of lease to the petitioner subject to certain conditions contained therein.

By the impugned proceedings issued on 03.12.2007 the Corporation withdrew the earlier proceedings on the ground that it decided to earmark the said land to some other specific purpose.

I have heard Sri G. Krishna Murthy, learned counsel for the

petitioner and Sri K.V. Simhadri, learned Standing Counsel for the Corporation.

Though the transaction between the petitioner and the respondents is non-statutory in nature, but the fact is that the respondent Corporation is a State within the meaning of Article 12 of the Constitution of India and it is bound by all the constitutional requirements of a State. One such constitutional requirement is to act fairly. As held by the Supreme Court in **ABL International Limited v. Export Credit Guarantee Corporation of India Limited**[1] the State even in the contractual sphere, is expected to act in a non-arbitrary and fair manner.

The petitioner's grievance is that the impugned order is not preceded by any notice or an opportunity was afforded to it to put forth its case.

In view of the above, order dated 03.12.2007 is quashed. The respondents are given liberty to initiate action afresh after giving notice and opportunity to the petitioner against the proposed withdrawal.

Subject to the above, the writ petition is allowed.

As a sequel to disposal of the writ petition in the manner indicated above, WPMP.No.35079 of 2007 filed by the petitioner for interim relief is disposed of as infructuos.

C.V. NAGARJUNA REDDY, J

Date: 17.12.2007
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[1] (2004) 3 SCC 553